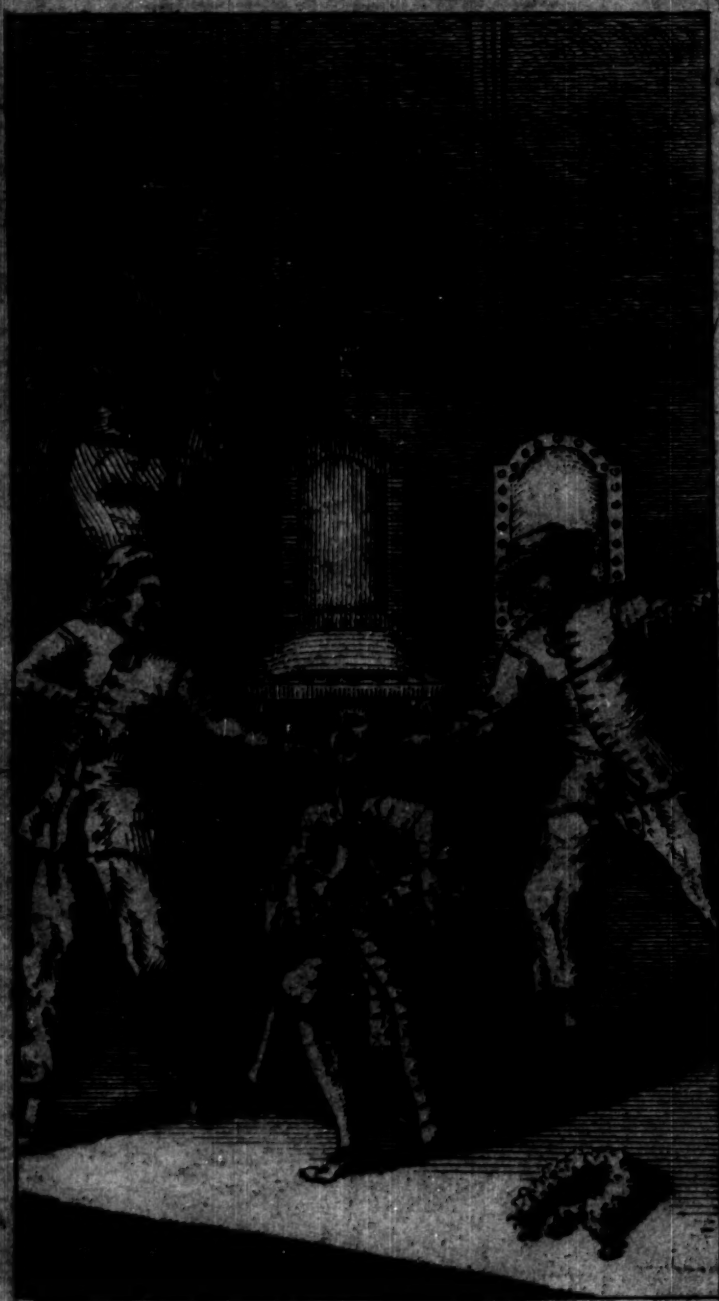
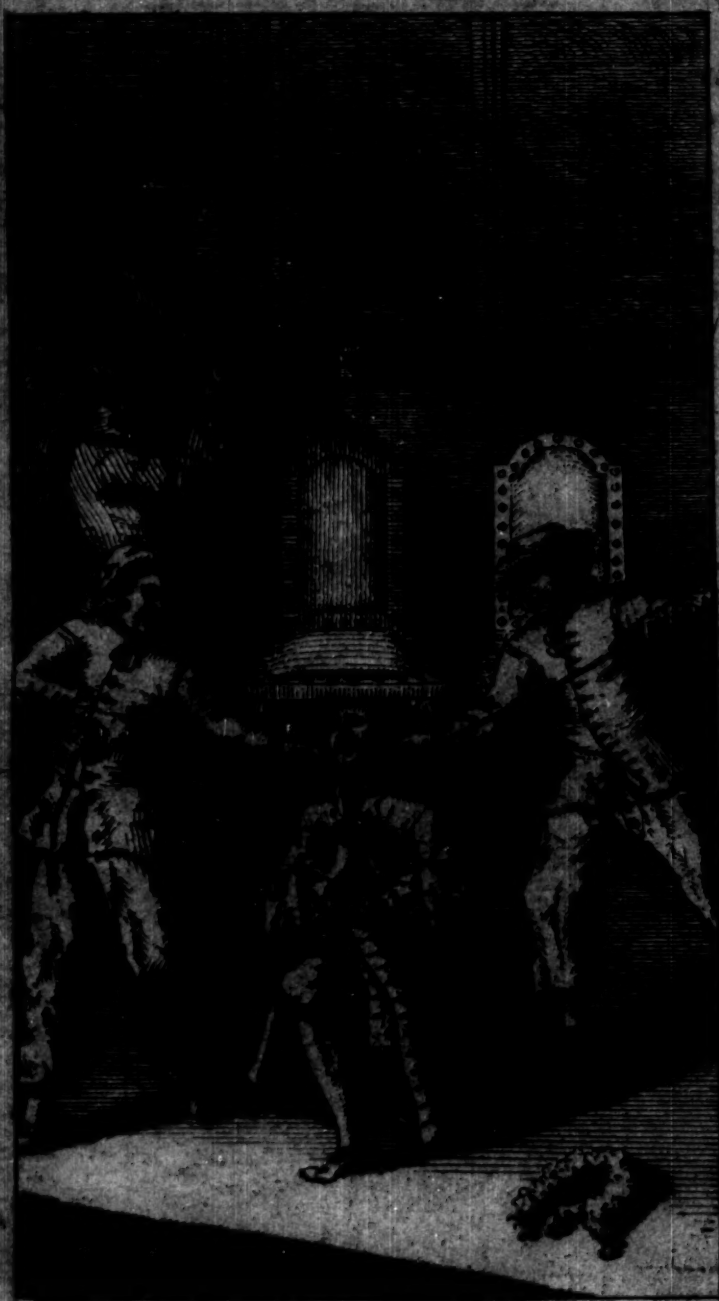






THE GENUINE

TRIAL

OF

SAMUEL GOODERE, Esq;

(Late Commander of the *Ruby* Man of War)

MATTHEW MAHONT,

AND

CHARLES WHITE,

AT THE

GENERAL SESSIONS of Oyer and Terminer for the City of BRISTOL,

HELD BY

Adjournment on *Thursday* the 26th Day of *March*, 1741, before the Right Worshipful *Henry Combs*, Esq; Mayor, the Worshipful Mr. *Serjeant Forster*, Recorder, the Worshipful the Aldermen, and Justices assign'd to keep the Peace, and deliver the Oath;

FOR THE

Murder of Sir JOHN DINELY GOODERE, Bt.

ON BOARD

His Majesty's Ship the *RUBY* Man of War, then lying at *King-Road*, within the Jurisdiction and Liberties of the said City of *Bristol*.

Taken in Short-Hand by Order and Direction of S. FOOT, of *Worcester-College, Oxford*, Esq; and Nephew to the late Sir JOHN DINELY GOODERE, Bait.

L O N D O N :

Printed by H. Goreham, at the New Printing-Office in *Wine-Office-Court, Fleet-street*, 1741.

(Price Six-pence.)

THE GAZETTE

OF THE
GOVERNMENT OF INDIA

FOR THE YEAR 1900

PART I

GENERAL

ADMINISTRATIVE

FINANCIAL

LEGAL

EDUCATION

AGRICULTURE

INDUSTRIES



T H E
T R Y A L
O F
SAMUEL GOODIER, &c.

ON the 26th day of *March*, 1741, at the Affizes held at *Bristol*, (*being a City and County of itself*;) *Samuel Goodere Esq;* *Matthew Mabony*, and *Charles White*, Mariners, were arraigned upon an Indictment found by the Grand Jury; and the Court proceeded thus, *viz.*

Clerk of the Arraignments.

Samuel Goodere. Hold up thy hand, *Matthew Mabony* Hold up thy hand, *Charles White* Hold up thy hand, (which they severally did.)

You stand indicted by the names of *Samuel Goodere* late of the parish of *St. Thomas's* in the county and City of *B R I S T O L*, Esquire, *Matthew Mabony*, late of the parish aforesaid in the county aforesaid, mariner; and *Charles White* late of the parish aforesaid in the county aforesaid mariner; for that you not having the fear of God before your eyes, but being moved and seduced by the in-

stigation of the devil, on the 19th day of January in the 14th year of the Reign of his present majesty, by force of arms &c. at the parish aforesaid in the county aforesaid, in and upon the body of Sir John Dinely Goodere, Bart. in the presence of God and of our Sovereign Lord the King, then and there being violently, feloniously, voluntarily, and of your malice aforethought did make an assault, and that you the aforesaid Samuel Goodere, Matthew Mabony, and Charles White with a certain rope of the value of one penny about the neck and throat of the said Sir John Dinely Goodere, then and there with the hands of you the said Samuel Goodere, Matthew Mabony, and Charles White feloniously, voluntarily, and of your malice aforethought, did hold, squeeze and gripe, and that you said Samuel Goodere, Matthew Mabony, and Charles White, with the aforesaid rope by you the said Samuel Goodere, Matthew Mabony, and Charles White then as aforesaid about the neck of the said Sir John Dinely Goodere, put, placed, fixed, and bound, and by the squeezing and griping of the neck and throat of the said Sir John Dinely Goodere, with the hands of you the said Samuel Goodere, Matthew Mabony, and Charles White as aforesaid then and there by force of arms &c. feloniously voluntarily and of your malice and aforethought, did choak and strangle, by reason of which choaking and strangling of him the said Sir John Dinely Goodere, Bart. by you the aforesaid Samuel Goodere, Matthew Mabony, and Charles White with the said rope about the neck of the aforesaid Sir John Dinely Goodere as aforesaid placed fixed and bound and by the squeezing and griping of the neck and throat of the said Sir John Dinely Goodere with the Hands of the said Samuel Goodere as aforesaid the said Sir John Dinely Goodere instantly died, and so you the said Samuel Goodere Matthew Mabony and Charles White on the 19th of January aforesaid in the year aforesaid in the parish aforesaid in the county aforesaid, in manner

SAMUEL GOODERE, &c.

manner and form aforesaid, feloniously voluntarily and of your malice and aforesight did kill, and murder the said Sir John aforesaid, &c. against the peace of our Sovereign Lord the King his crown and dignity aforesaid.

Clerk of the Arraignments. How sayest thou Samuel Goodere, art thou guilty of the felony whereof you stand't indicted, or not guilty?

Prisoner. Not guilty.

Clerk of the Arraignments. Culprit; how wilt thou be tryed?

Prisoner. By God and my country.

Clerk of the Arraignments. God send thee a good deliverance.

How sayst thou Matthew Mabony art thou guilty of the felony whereof you stand indicted or not guilty?

Prisoner. Not guilty.

Clerk of the Arraignments. Culprit. How wilt thou be tryed?

Prisoner. By God and my country.

Cl. of A. God send thee a good deliverance.

Cl. of A. [to Charles White.] How wilt thou be tryed?

Prisoner. By God and my country.

Cl. of A. God send thee a good deliverance.

Samuel Goodere, Matthew Mabony, and Charles White, You the prisoners at the Bar, hearken to what is said to you, those good men that are now called, and do here appear, are those that are to pals between our Sovereign Lord the King and you; upon your several lives or deaths, if therefore you or either of you will challenge them or any of them, you must challenge them as they come to the book to be sworn, before they are sworn, and you shall be heard.

Crier. O yes, O yes, if any of you can inform my Lords the King's Justices, the King's Serjeant, the King's Attorney, before this Inquest be taken between our Sovereign Lord the King, and the prisoners

the Prisoners at the bar: Of any treason, murder felony, or other misdemeanour, committed by the Prisoners at the bar, or either of them come forth, and you shall be heard, for the Prisoners at the Bar now stand upon their deliverance, and all persons bound by Recognizance to prosecute them, or either of them, come forth and prosecute, or you'll forfeit your Recognizances.

Cl. Samuel Goodere, Matthew Mahony, and Charles White, hold up your hands, gentlemen of the Jury, look upon the Prisoners and hearken to their charge, they stand indicted by the names of *Samuel Goodere, Matthew Mahony, and Charles White, &c.* [pross in the indictment *mutatis mutandis*,] upon which Indictment they have been Arraigned, and pleaded severally not guilty, your charge is to enquire if they, or either of them are guilty of the felony whereof they stand indicted, or not guilty.

Prisoners. We humbly desire to have pen ink and Paper.

Court. Yee, by all means.

Council. May it please your lordship and you gentlemen of the Jury, —

Goodere. My lord; I desire that I may have Council.

Court. In points of law you shall have Council assigned you; but in matters of fact that cannot be granted.

Goodere. My lord, I desire that your lordship and the court would be of Council for me, because my lord; I am unacquainted with the law.

Court. We will take care that no advantage shall be taken of your ignorance in the law.

Goodere. I desire to be indulged a few words that your lordship will. —

Council. Look you Mr. Goodere, because you must observe the common and usual methods of trial in your case, as well as others I must interrupt you now, you shall be fully heard when it comes to your turn to make your defence, but any thing you now say before

before hand is altogether irregular and improper, you it may be are ignorant of the forms of law, therefore I would inform you; you are first to hear what your accusation is, you may ask any question of the witnesses, that you will after the King's Council have examined them as they go along, and when all their testimony is deliver'd, you will be heard to make your defence, and have full scope and liberty to enlarge upon it as long as you can, it is a business that concerns you in point of life and death; all that you have or can value in the World lies at stake. And God forbid that you should be hindered by me, either in time or any thing else, whereby you may defend yourself, but at present it is not your turn to speak, for the forms of law require your accusers to be heard, and it is absolutely requisite that the usual forms and methods of law be inviolably observ'd, and be sure it does the prisoner no injury that the law is kept so strictly to, and the charity as well as justice that it becomes a Court, and is not below them to have for persons in your condition, and they are obliged to take care that you suffer no detriment or injury by any illegal or irregular proceedings, for tho' they set here as Judges over you by authority from the King, yet they are accountably not only to him, but to the King of Kings, the Great Judge of Heaven and Earth, and therefore are obliged both by their oaths and upon their consciences to do you justice, and by the grace of God they will do it, you may depend upon it and as to what you say concerning yourself; I pray God with all my heart that you may be innocent. Gentlemen therefore we that are on the behalf of the Crown will call our Witnesses,

Second Council. May it please your lordships and you gentlemen of the Jury, I am Counsel *pro hac Vice* for the king, against the prisoners at the bar, for his majesty, as the father of his people and for their

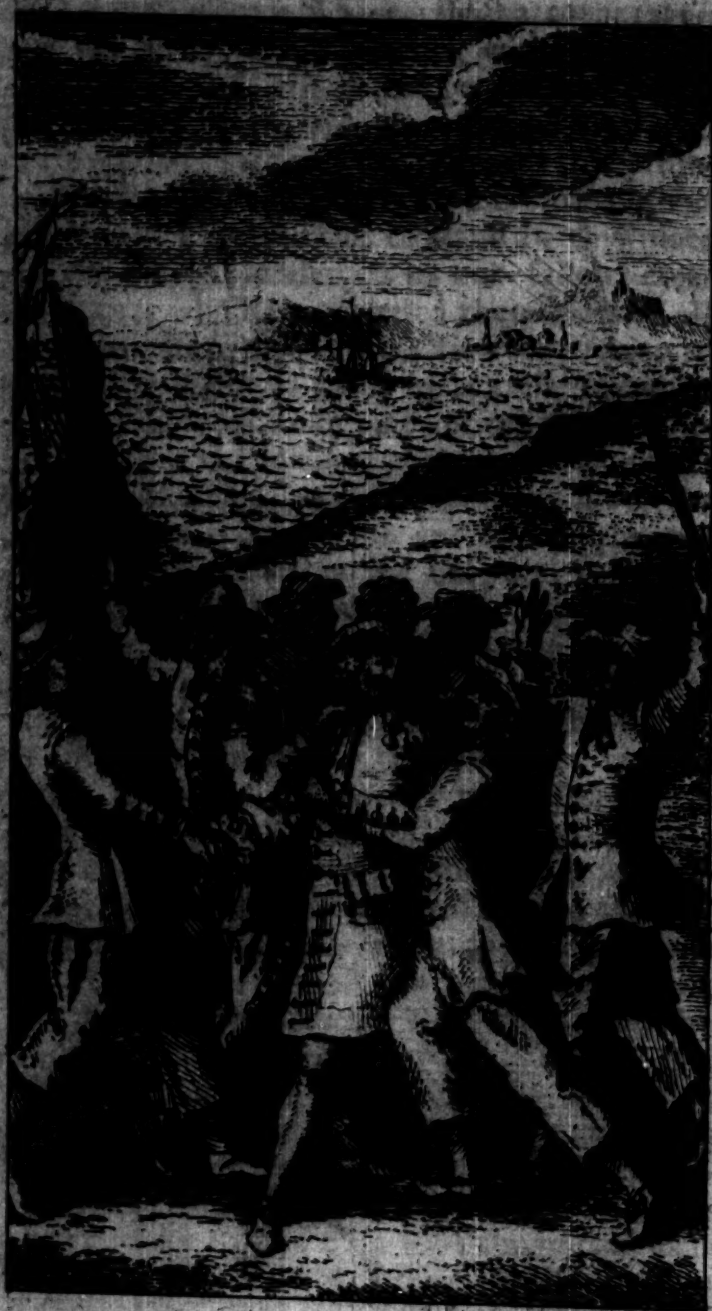
their safety know that justice is one of the pillars that supports a throne and out of his inherent goodness and love to justice will have a strict account taken of the blood of any of his subjects, without respect to the quality of the slain or the person who stands charged with his death, and therefore he hath been graciously pleased, particularly, to regard this prosecution, for so horrid and bloody an assassination, and tho' gentlemen it is difficult to stand in this place without the greatest tenderness to our fellow creatures, yet they who have divested themselves of all humanity now cease to be such, 'tis even cruelty to the king's people not to stand up against them, so far as is consistent with law and justice, their prosecution is become the common concern of mankind, for so long as these prisoners have a being here, the life of every man is precarious and but at the will of so infernal a contriver as the one, and so hellish an executioner as the others.

Gentlemen, no man can declare his opinion just as he lists, and therefore a determination or judgement at will and pleasure, will never be thought to deserve the name of a verdict, for whatever may be pretended, the world will not be persuaded that a jury hath pursued the dictates of conscience, unless some reasonable grounds for its proceedings shall appear, and therefore whenever it shall happen that notorious malefactors escape unpunished at a Time that in the opinion of most good men there was full and sufficient evidence for their conviction, the world will think very strange of the Verdict; for gentlemen you are sworn to try this issue according to the evidence given, and though mercy and compassion are implanted in mankind, yet the preservation of Society makes it necessary, to punish the wicked; and mercy to men who have committed such vile facts would be cruelty in the highest degree to the rest of his majesty's subjects, and it will lye on you.

My lord for that purpose to lead to the fact it will be

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be necessary to inform you that on the Sunday before
this horrid tragedy happened, Sir John Dineley had an
appointment to dine with one Mr. Smith an attorney
at Newgate this day, when Captain Goodere one of the
gentlemen at the bar came to this city, and to
carry on his wicked intent, forewarned to dine near at
hand, and after dinner intended with Mr. Smith
to admit him into company with the deceased in
order, as he pretended, to accommodate some fami-
ly differences in amicable manner, that gentle-
man who always showed an inclination rather to heal
and make up family differences, than to widen them,
gladly laid hold on the opportunity to effect
the good design and introduced the prisoner Mr.
Goodere to the deceased, and Gentlemen, so subtly
did the prisoner act his part, that after some dis-
course they seemingly appeared as good friends as
ever, for just as the baronet was about to go, the
prisoner took his leave of his brother in the most
friendly and affectionate manner.

The deceased gentleman having finished his visit
to Mr. Smith, departed without any suspicion of any
evil that might arise to him, and as he was going to
his apartment, he was seized by the other prisoners
who were hired by Mr. Goodere to be ready at hand,
and on the captain giving the word of command to
seize the deceased, they hurried him along the
streets to the water side where was a boat prepared
to receive him. We shall prove gentlemen by other
witnesses how the deceased cried out murder several
times, when the prisoner Goodere stopped his mouth
with his cloak, and to divert his majesty's subject
from interposing in this course of iniquity, the Capt.
told the people that the deceased was a thief and a
deserter, and had made his escape from the ship,
and that they were going to carry him on board the
man of war to secure him in order for his trial.

We

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We shall likewise prove, gentlemen, that after they had thus violently got him into the boat, the deceased said to the Prisoner Goodere; brother, I know you have a design to murder me, I beg that if you are resolved to do it, that you will do it here, and don't give yourself the trouble of carrying me down to your ship; when the prisoner reply'd, no, brother, I am going to prevent your rotting on land, but however, would have you make your peace with God this night. We have likewise gentlemen, witness, that will prove, when the Captain came on board, to prevent the ship's crew from doing any thing that should obstruct his putting in execution this premeditated scheme, he told the ship's company that he was mad, and that he brought him on board to prevent him from destroying himself, and order'd them not to mind what the deceased said. We shall likewise set forth in the course of our evidence in what manner the prisoners conveyed the deceased into a private place in the ship, where they kept him, until they committed the horrid fact for which they are indicted. We shall also, Gentlemen, shew how Capt. Goodere, the Prisoner at the bar, stood centry at the door with a drawn sword in one hand, and a pistol in another, to oppose the first person, who should offer to prevent their finishing this tragedy.

Long We shall prove by Mabony and White's Confession, and other incontestable Evidences, the manner they took one of the deceased's handkerchiefs, and put it about his neck, and then pull'd it as hard as they could, in order to strangle the Baronet, whilst the unfortunate gentleman whom they were murdering, cried out, Murder, Murder; for Christ's sake, brother, don't kill me, but save my life, dear Goodere, Help, help, help, murder. We shall further shew that these blood-thirsty wretches, void of all humanity and compassion, the better to perpetrate their nefarious project, slipped off the handkerchief, and

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and put a cord about his neck, which had a noose at the end, and then pull'd the cord until the unfortunate Baronet was deprived of life, after he had struggled about 40 minutes, in which time he lost abundance of blood, that issued from his mouth, and nose, till at last, that unfortunate gentleman became a sacrifice to the cruel vengeance of a bloody thirsty brother, by the hands of two inhuman wretches.

We shall be able, thank God, to prove by other witnesses, the manner how this murder was discovered by the cooper of the ship, and his wife, who, through a crevice saw part of this horrid scene. We shall prove, gentlemen, that when the prisoners, *Mabony* and *White*, were seized, they had in their possession several things, belonging to the deceased, which are the strongest corroborating circumstances, to prove them guilty of this indictment, which is for the most horrid, vile, barbarous and deliberate murder, that any man has heard of, and which I think any thing in history cannot parallel.

My Lord, we will call our witnesses, and prove all these facts, that I have open'd to your lordship, and then I hope the prisoners will be put, to give you some account how these matters happen'd.

Councillor. My Lord, with your Lordship's indulgence, I would, for the information of the gentlemen of the jury, explain to them the nature of the statute and common law, concerning the different sorts of murder. Gentlemen, in the first place, I would observe to you, that MURDER committed upon another, is when a man or woman of sound mind and memory, and of the age of discretion, unlawfully killeth any reasonable creature in being, under the King's protection, within any county, of malice, forethought, either exprest or implied, so as the party wounded, or hurt, dieth of the wound or hurt, within a year and a day.

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The murder may be done by weapon, as sword, staff, or by poison, crushing, wounding, stabbing, bruising, smothering, suffocating, strangling, drowning, burning, famishing, throwing down, inciting a dog, bear, or other beast, to bite or hurt, whereby death ensueth; or it may be done, by laying a sick man in the open air, against his will, by reason whereof he dieth; and such was the case of him who carried his sick father against his will, in the frosty season, from one town to another, by reason whereof he died, *Crom. 24.*, tho' at the same time I will tell you, gentlemen, that the law says, if the person that commits the murder is under age, of discretion, or *Non compos mentis*, such cannot be guilty of murder, yet if it appears that the infant did hide the body, it is felony; *malitia supplet aetatem*; because that indicates his sense of guilt; or if one drunk kills another, it is murder; for his inebriety or immoral living, will rather aggravate than extenuate the crime; and likewise if a person incites a madman to kill another, he is guilty of murder. The killing, gentlemen, must be some reasonable creature, man or woman, subject or alien, christian or heathen, tho' he be attainted of high-treason, felony, praemunire, or not; and the reasonable Creature killed must be born alive, except in the case of a bastard-child, because there the intent of the mother to conceal the child, makes it to be thought murder, or by giving a potion to, or striking a woman big with child, so that it causes an abortion, as you may see by the 22 *Jac. I.* Also one who wilfully neglects to prevent a mischief, which he may and ought to provide against, in the judgment of the law, is the actual cause of the murder, which ensues as if a man hath an ox, horse, dog, or bear, which he knows to be mischievous, by being used to gore, kick or bite them that come near him, and he do not tie them up, but leave them

them at their liberty, and they afterwards kill a man, the owner may be indicted. And before an indictment can be found to be tried at the assizes, it will be necessary to set forth, that the murder was committed within some county. For if it is done out of the realm, it cannot be determined by the common law, but must be tried by the court of the *Constable*, or *N. A. Hall* of the Admiralty court, and the court by commission, according to the provision wisely made by an Act of parliament, in the 28th year of the reign of Henry the VIIIth.

It is not deemed murder by our laws, without it be done with a malice, forethought; for malice is a formed design of doing mischief to another, so that hatred and malice differ. He that doth a cruel and voluntary act, whereby death ensueth, doth it of malice prepens'd, and forethought in the esteem of the law, tho' he doth it of a sudden; therefore malice is *express'd* or *implied* by the law.

EXPRESS MALICE, gentlemen, is when the killing is with malice prepens'd or forethought, with a sedate mind, and formed design, to wound, poison, or to do some personal injury to him that is kill'd, the malice continuing until the mortal wound or hurt is given: This malice may be in the principal, that doth the act, or in the principal aiding and abetting others to do it, and in the accessory before the fact was committed; as when a person in cold blood, maliciously, unlawfully, and deliberately beats another, or doth other corporal damage in such a manner that he afterwards dieth thereof, he is guilty of murder, by *express malice*, tho' he did not design to kill him, but if he beats him only in such manner, that it appears he only meant to chastise him, it is manslaughter only. If one executes his revenge upon a sudden provocation in such a cruel manner, with a dangerous weapon, as shews a malicious and deliberate intent to do mischief, and death ensues,

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cases, it is express malice, from the nature of the fact, and murder.

And, gentlemen, I must tell you, that if two or more come together, to do an unlawful act, as the prisoners at the bar have done, to assault or beat a man, to commit a riot, to rob a park or orchard, and one of them kills a man, this is *murder* in all, of that party that were present, aiding or assisting, or that were ready to aid and assist, tho' but a looker on, which is near the present case; but it is otherwise of them that came by chance; for it is certain that were the principal intent was to commit another Felony, or any other unlawful act, and a killing happens in Pursuance of that unlawful Purpose; all are guilty of murder, for all will be said to intend the murder; and such persons are said to be present that are in the same house, tho' in another room, or in the same park, if at half a mile's distance, or out of view, which I apprehend to be near the present case, and which, gentlemen, is what I have to offer on the subject of murder, and what was proper for your own consideration, if you are satisfied from the evidence that we shall produce, that the forcibly carrying away Sir John Dinley Goodere on board the *Ruby Man of War*, was an illegal act, you will then consider that every person who was concerned in that act, were principals in the murder of that unfortunate Gentleman; and you will find them guilty accordingly.

Call Mr. Smith,

Mr. Smith Sworn.

Mr. Smith, My Lord, on Sunday before the unfortunate Sir John Dinley was murder'd, I invited him to come to my house, and take a dinner with me, on College-Green, and sometime after Sir John was there, I receiv'd a message from Capt. Goodere, purporting, that he should esteem it an infinite obligation, if I would permit him to come, it would be means to bring

bring about a reconciliation; and an accommodation of the differences that had long subsisted between him and the deceased; and as I thought it a meritorious act to be an instrument to heal up family differences, I prevailed on sir John, to give me leave to introduce the prisoner to him, and accordingly sent word by the messenger; and in little time Mr. Goodere the prisoner came, and the two brothers sat down at the table, and in appearance to me, there seemed to be mutual salutes and marks of brotherly love. After dinner, my lord, I withdrew, and left them by themselves, for the space of an hour, 'till I was call'd in, and after we had smok'd a pipe together; mr. Goodere took his leave of sir John Dinley, in the most friendly and affectionate manner imaginable.

Council. Pray, mr. Smith, acquaint my lord and the jury, what happened after.

Mr. Smith. My lord, I accidentally heard the said Sunday evening, that they were at my house, that a person who had the appearance of a gentleman, was hurried in a violent manner over College-Green, and that a gentleman who was concerned in hurrying the person away, answered the description of captain Goodere, and knowing his ship was to sail, the first fair wind; and remembring that they went out of my house near together, it came directly into my head, that the Captain had taken him on board, to distress him to conceed to his terms, and perhaps might destroy him, when they came on the high Seas. And this suspicion being strengthened by other circumstances, it made such a deep impression on my mind, that I was not easy all night; but considering how long it would be before I could obtain his majesty's writ, *De homine replegiendo*, I went the next morning to mr. Mayor, for a warrant, and an officer to go on board the *Ruby Man of War*, to search her before she was sailed out of the liberty of the city; and accordingly his worship sent the water bailiff, with proper assistance and

full power and instructions to search the ship, for fir John Dingley, and what the water bailiff did, he will inform the court.

Another Witness Sworn.
Council. Pray acquaint my lord and the jury, what you know relating to the murder of fir John Dingley.

Witness. My lord, I was passing along College-lane, and I saw six men hurrying the deceased along towards the Hot-well, when the deceased as he was carried along, cried out murder! murder! I am, fir John Dingley Goodere, and the prisoner stopp'd his mouth with his cloak, upon which some people who did not know his name, asked what was the matter, when Mr. Goodere, the prisoner at the bar, said it was only a thief and a deserter, and that they were going to carry him on board the King's ship to try him. And my lord, not knowing what might be the consequence of interposing in matters of this nature, having lately seen the sad effects of opposing the authority of a press-gang, I went home and thought no more of the matter till the Monday night, when there was a report of the murder; and therefore next day I went before the worshipful the mayor and aldermen, and discovered what I knew of this transaction, in the same manner as I have to your lordship.

Court. Would the prisoner ask this witness any question? Prisoner. No my lord.

A Sailor Sworn.

Sailor. May it please your honour, my lord, I was order'd to watch in the boat, whilst our noble Captain and the other boat's crew were on shore, and about six o'clock on Sunday the 18th of January last, our boat's crew brought the deceased into the boat, among whom was our Captain, and the prisoners at the bar; Charles White, and Matt Maboney.

Council. Pray what passed there between the prisoners and the deceased?

Sailor.

Sailor. Nothing as I know of, and please your worship.

Council. Was there no dialogue between the two brothers.

Sailor. Dialogue!

Council. Ay; Dialogue!

Sailor. If you call it a Dialogue, it was a very odd one, such as I had never heard between two Brothers.

Council. Tell the court what you heard them say to each other.

Sailor. An please your honour, fir John Dineley said to our noble Captain, Brother, I know you have an intention to murder me; I beg that if you are resolved to do it, that you would do it here, and not give yourself the trouble of taking me down to your Ship.

Council. Pray did not your noble Captain; as you call him, say any thing?

Sailor. Yes, Captain Goodere, said to fir John Dineley, Brother; I am going to prevent your rotting upon Land; but however, Brother, I would have you mak your Peace with God this Night.

Council. Do you know any thing more?

Sailor. I don't remember any more, only that when we came along-side our ship, the sailors help'd the deceased on board, and it was my station, to stay behind and stow the boat.

Court. Prisoners, would you ask this witness any questions?

Prisoners, All. No, no, no, my lord.

The Master of the Ship Sworn.

Council. Sir, if my instructions are right, you are master of his Majesty's ship the *Ruby* Man of War?

Master. Yes fir, instead of a better.

Council. Then pray fir, I desire, that you will be so good as to give the court an account of what you know relating to the unhappy death of fir John Dineley Goodere?

Master.

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Master. My lord on *Sunday* the 18th day of *Jan.*

Council. Sir I must crave the favour, that you will raise your voice, that so the jury may hear what you say.

Master. My lord, on *Sunday* the 18th day of *Jan.* last, about six o'clock in the evening, my servant came into my cabin, and told me, the captain was in the boat, which was near the ship, and accordingly I went on the quarter-deck in order to receive the captain, which was my duty in the absence of the lieutenant, and when the tide was mann'd, (the captain whom I am heartily sorry to see here in the shape that he appears) order'd some hands into the boat, to help his brother on board; accordingly the boatswain pip'd and order'd all hands upon deck, and some of the briskest hands stept into the pinnance, and in a manner hoisted the deceased into the ship; when he cried out that his brother was going to murder him, and captain *Goodere*, told me, *not to mind him nor his noise, because he was mad, and that he had brought him aboard, on purpose to prevent his making himself away;* and then the deceased was convey'd away into the captains cabin, which is all that I know of the matter.

Council. Pray sir, do you know any thing of the murder?

Master. No, untill it was discover'd by the cooper.

Court. Would the prisoners ask this evidence any questions?

Prisoners. No, my lord.

The Boatswain Sworn.

Council. Pray sir, acquaint the court of what you know, relating to this unhappy affair?

Boatswain. My lord, on *Sunday* the 18th of *January* last ———

A Jurymen. I cannot hear one word my lord.

Council. Pray raise your voice.

Boatswain. My lord on *Sunday* ———

Council.

Council. I can't hear what you say, sir.

Court. You must speak so, that the gentlemen of the jury may hear you.

Boatswain. My lord on *Sunday* the 18th day of *January* last —

Council. 'Tis a strange thing, sir, that you won't speak out, I don't understand one word you say, you can be loud enough on board, and make the ships company hear you, at the maintop-mast-head in a storm, and you can't speak loud enough here to be heard in court.

Boatswain. My lord, grief overcomes me, to see so worthy and so gallant a commander, as ever went between stem and stem of a ship, appear in the manner as the captain doth.

This occasioned a talking in court.

Crier. Silence, gentlemen, forbear talking.

Clerk. O yes, all persons are commanded to be silent on pain of imprisonment.

Boatswain. My lord and gentlemen, on *Sunday* the 18th of *January* last, about nine o'clock in the morning, I had orders from the captain at the bar, for whom my heart bleeds! to direct that the pinnance, might be got ready; and accordingly I ordered the boats crew to be in readiness; and in about half an hour the captain went ashore, and about 7 o'clock in the evening, being very dark, one of our ships crew came into my cabin, which is at the bulk-head of the steerage, to acquaint me that the pinnace was a long-side, with the captain in it; upon which I piped all hands upon deck, and ordered the seamen to man the side, when the captain order'd a brisk hand or two to step into the pinnance, to help his brother in; and when the deceased came into the ship, he cried out they were going to murder him; but the captain said, *that we need not mind him, because he was mad, and that he was brought on board on purpose to prevent his making himself away;* and

after sir *John* came on board, he was conducted into the cabin; and as it was my duty to obey the command of my superiors, so I thought it would be imprudent for me to interpose, in any difference between the captain and his brother, otherwise I would have exerted myself, to have prevented the sad effects, which afterwards happened.

Court. Would the prisoners ask this witness any questions.

Goodere. My lord, I would ask the evidence, if he believes I would have been guilty of the murder of the murder of my own brother.

Boatswain. No, for never did a more worthy gentleman bear a commission under his majesty than capt. *Goodere*, nor no man ever carried a better command than he did, nor treated those who were under him, with more humanity and kind usage than the captain did.

Council. Set this witness down and call the cooper.

The Cooper of the Ruby Sworn.

Council. Sir, do you know any thing of the murder of sir *John Dinley*?

Cooper. Too-much to my sorrow; for the captain whose behaviour was so well to the ships crew, that none of us but would have gone to the mouth of a cannon for his service.

Council. Well pray acquaint my lords and the jury what you know.

Cooper. My lord it happened that my wife was on board his majesty's ship the *Ruby*, on *Sunday* the 18th day of *January* last; and there being a great noise in the purser's cabin, on *Monday* morning about six o'clock; I peeped through an open crevice, and saw the fatal tragedy, where the captain stood sentry, with a drawn sword in one hand, and a pistol in the other, to attack the first person that should oppose him in what they were about; and then the prisoner

prisoner *White* held the deceased's hands, whilst *Mahoney* took his handkerchief off, and put it about his neck; when each pulled as hard as they could, in order to strangle him at once, but the deceased making a desperate struggle, they could not effect their design so as to prevent his crying out, *Murder! Murder! for Christ's sake don't kill me, take all I have, but save my Life, dear Brother; what must I die! help! help! Murder*; whereupon *Mahoney* to prevent any more noise, snatched up a cord that was laid ready, and slipping off the handkerchief, put the cord about his neck, which had a noose at the end, holding the cord in one hand, and gripping with his other hand the deceased's and thumping with his knee against the deceased's stomach; and *White* at the same time, held his hands, and took out of the deceased's pocket, eight guineas or thereabouts, as I believe, and a gold watch, giving sir *John* at the same time a curse, swearing, *was that all the Money he had*; and after a long struggling, with the agonies of death, which according as I can compute it, as to points of time, was about forty minutes, the unfortunate gentleman gave up the ghost; and there was abundance of blood issued out of his nose and mouth; so soon as this cruel act was finished, the prisoner *White*, went directly to the captain and shew'd him sir *John's* gold watch, and the captain ask'd him, *whether the Job was done*, upon which *White* cried yes, by G—d noble captain; upon which, capt. *Goodere*, gave *White* the deceased's gold watch, and the eight guineas, and a silver watch out of his own pocket, and the captain gave *White* and *Mahoney* some money he had in his own pocket, and order'd them to go on shore directly, that they might the more easily make their escape.

Goodere. How can you take upon you to say, that I gave them eight guineas, when you admit you was not in the cabin,

Cooper.

Cooper. I vow to God, that I have the greatest honour and regard for you; but as I am sworn to speak the truth, the whole truth, and nothing but the truth; so I have strictly confin'd myself to it, and could heartily wish that I could have been excused being here.

Council. Sir, it is your duty to discover what you know, and not to come here to make apologies.

Cooper. Sir I know my duty and am ready to do it.

Council. Then sir pray inform the jury what happened after the murder of sir *John Dinely*.

Cooper. Why sir, I will tell you, after this happened, I was in a quondrey what to do, least I might do any thing that would make me be tried by a court-martial, but at last I took a resolution to talk with our first lieutenant, and inform him of the whole transaction, and accordingly did, at which he seemed confounded, and would hardly give credit to what I told him, till being press'd hard, and assured that if he would not prevent it, I would make a bold push myself to get in, at length I got his approbation, I went down in the *Lazaretto*, and broke open my chest, and put some things into the hammock; one of the ships crew then came upon deck, and let the lieutenant know my stratagem, and finding he approved of it, I went boldly to the cabin door, and knocked hard, when the Captain ask'd, *who is there?* and I answer'd *'Tis I the Cooper, and please your honour*, when capt. Goodere asked me, *what I wanted?* I told him, *that I was robb'd, and that my Chest was broke open, and that I wanted his Honour to do me Justice*; upon which captain Goodere opened the door, and told me *that I should have Justice*; when immediately I seiz'd the captain, and our lieutenant and several of our hands broke in and helped me; and there to our horror and surprize, the dead body of sir *John Dinely* lay on the cabbins deck with marks of violence on it. And after we had secured the captain, our lieutenant

was

was puzzled what to do with his captain, because he imagined that the murder was only under the cognizance and jurisdiction of the high court of Admiralty; and was going to dispatch a messenger for orders therein. But about 12 o'clock on the same *Monday*, the water-bailiff of *Bristol*, came on board and demanded the body, which at first our lieutenant refused, but being satisfied that *King's-Road*, where our ship was at anchor, and was within the liberties of the city of *Bristol*, and within the power and cognizance of the city magistrates; then he not only delivered the captain into the water-bailiff's custody, but immediately ordered a dozen hands from on board the ship as a guard to conduct him up to *Bristol*.

The Coopers wife being examined, her testimony confirmed every thing her husband related, to the passage of peeping thro' the crevice; and the manner the captain stood in the cabin with a drawn sword, and a pistol in the other, and likewise how *Mabony* and *White* perpetrated the horrid fact.

Then the water-bailiff gave the court an account how he behaved, in the execution of the worshipful Mr. Mayo's warrant, and the court asked the prisoner what he had to say in his defence.

The captain behaved with a remarkable resolution, and smil'd and declared his innocence, and that because he found his brother acted more like a lunatick than otherwise, by cutting off the entail of his estate, and squandering away his substance among a parcel of men, who had made themselves notorious for their bad morals and dissolute life; and that by carrying him on board the ship in the manner he did, he had no other view, than to take care of him, and prevent that destruction, which inevitably was falling on him and the family; in case some care was not taken to prevent his going on in those bad practices he was engaged in; that it never entered into his head to murder his own brother: The very motion of which, made

made him chidden, and what could not be thought of, but with the most horror, that what *Mabery* and *Whitely*, he had could not be charged to him with, they could prove a better Identity, than what nature had instituted. There was a great number of persons of the best figure and reputation, both from *Hartford* and *Worcester*, as well as of *Bristol*, who gave him the character of a worthy gentleman, whose behaviour had been always such, that they could never imagine he was capable to perpetrate so horrid and monstrous a fact. And abundance of sailors appeared on his behalf, and informed the court of his mild behaviour to them, and some expressed themselves on his behalf, in the most moving manner, that he was as gallant and brave a sailor as ever went between stem and stern of a ship, and he was so beloved by them, that they would go to the mouth of a cannon to serve him.

The trial held about 5 hours, and after Mr. *Rovelle* had summed up the evidence on both sides with a great deal of candour and impartiality, the jury withdrew and were absent an hour, then brought in a verdict, that Captain *Samuel Gardner*, Charles *White* and *Matthew Matson*, were guilty.

F T N I S